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8 IN THE UNITED STATES DISTRICT COURT
9
10 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 BENJAMIN JOHN SARGISSON,
15 Defendant.

CASE NO. 2:22-CR-16-DAD
STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
ORDER
DATE: May 23, 2023
TIME: 9:00 a.m.
COURT: Hon. Daniel J. Calabretta

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17 BACKGROUND

18 By previous order, this matter was set for status on May 23, 2023, before United States District
19 Judge Dale A. Drozd. On April 6, 2023, the Court reassigned this case to United States District Judge
20 Daniel J. Calabretta and vacated all dates in the case. ECF No. 40. By this stipulation, the parties now
21 request that the Court set a status conference for June 22, 2023, and to exclude time under Local Code
22 T4, between May 23, 2023, and June 22, 2023, for the reasons set forth below.

23 STIPULATION

24 Plaintiff United States of America, by and through its counsel of record, and defendant, by and
25 through defendant's counsel of record, hereby stipulate as follows:

26 1. This case was set for a status conference on May 23, 2023.

27 2. By this stipulation, defendant now moves to continue the status conference until June 22,
28 2023, at 9:00 a.m., and to exclude time between May 23, 2023, and June 22, 2023, under 18 U.S.C.

1 § 3161(h)(7)(A), B(iv) [Local Code T4].

2 3. The parties agree and stipulate, and request that the Court find the following:

3 a) The government has represented that the discovery associated with this case
4 includes investigative reports and photographs, which the government has produced directly to
5 counsel. There is also physical evidence in the form of the firearms in question, which the
6 government has available for inspection, and will likewise make any other physical evidence
7 available for inspection. The government is also in the process of confirming whether there is
8 additional discovery, which it will produce in the event it is identified.

9 b) The parties are in the process of attempting to resolve this matter. Counsel for
10 defendant desires additional time to review the discovery produced, to consult with his client, to
11 conduct investigation and research related to the current charges, to discuss potential resolutions
12 to this matter, and to otherwise prepare for trial.

13 c) Counsel for defendant believes that failure to grant the above-requested
14 continuance would deny him/her the reasonable time necessary for effective preparation, taking
15 into account the exercise of due diligence.

16 d) The government does not object to the continuance.

17 e) In addition to the public health concerns cited by the General Orders and
18 presented by the evolving COVID-19 pandemic, an ends-of-justice delay is particularly apt in
19 this case because the defendant is out of custody and lives an appreciable distance from
20 Sacramento, where defense counsel is based. As a result, all travel must be carefully
21 coordinated, which is more difficult at this time.

22 f) Based on the above-stated findings, the ends of justice served by continuing the
23 case as requested outweigh the interest of the public and the defendant in a trial within the
24 original date prescribed by the Speedy Trial Act.

25 g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
26 et seq., within which trial must commence, the time period of May 23, 2023 to June 22, 2023,
27 inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4]
28 because it results from a continuance granted by the Court at defendant's request on the basis of

1 the Court's finding that the ends of justice served by taking such action outweigh the best interest
2 of the public and the defendant in a speedy trial.

3 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
4 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
5 must commence.

6 IT IS SO STIPULATED.

7 Dated: May 1, 2023

PHILLIP A. TALBERT
United States Attorney

8 /s/ JAMES R. CONOLLY
9 JAMES R. CONOLLY
10 Assistant United States Attorney

12 Dated: May 1, 2023

13 /s/ MICHAEL LONG
14 MICHAEL LONG
15 Counsel for Defendant
16 BENJAMIN JOHN SARGISSON

17 **ORDER**

18 IT IS SO FOUND AND ORDERED this 1st day of May, 2023.

20 /s/ Daniel J. Calabretta
21 THE HONORABLE DANIEL J. CALABRETTA
22 UNITED STATES DISTRICT JUDGE